

EX PARTE DELANTE FILED



Federal Communications Commission
Washington, D.C. 20554

MAY 3 1996

The Honorable Lamar Smith
U. S. House of Representatives
1100 NE Loop 410, Suite 640
San Antonio, Texas 78209

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Dear Congressman Smith:

Thank you for your letter of April 3, 1996, on behalf of your constituent, Michael Karisch, regarding the Commission's decision to freeze acceptance of paging applications. Mr. Karisch expresses concern that the suspension of processing of paging applications will adversely affect small businesses that provide paging services.

The Commission is currently conducting a rulemaking proceeding that proposes to transition from licensing paging frequencies on a transmitter-by-transmitter basis to a geographic licensing approach, using auctions to award licenses where there are mutually exclusive applications. In conjunction with that proceeding, the Commission initially froze processing of applications for paging frequencies. On April 23, 1996, the Commission released a First Report and Order in WT Docket 96-18 and PP Docket 93-253, which adopted interim measures governing the licensing of paging systems and partially lifted the interim freeze for incumbent paging licensees. For your convenience and information, enclosed is a copy of the Press Release concerning the First Report and Order, which includes a summary of the principal decisions made. Specifically, small and medium sized incumbent paging companies will be permitted to expand their service areas if the proposed new site is within 65 kilometers (40 miles) of an authorized and operating site. These interim rules will remain in effect until the Commission adopts final rules in the paging proceeding.

Thank you for your inquiry.

Sincerely,

A handwritten signature in cursive script, reading "David L. Furth".

David L. Furth
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

Enclosure

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files rec'd

LAMAR SMITH

21ST DISTRICT, TEXAS

JOHN W. LAMPMANN

CHIEF OF STAFF

2443 RAYBURN HOUSE OFFICE BUILDING

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Congress of the United States

House of Representatives

COMMITTEE ON THE BUDGET

COMMITTEE ON THE JUDICIARY

CHAIRMAN,
SUBCOMMITTEE ON
IMMIGRATION AND CLAIMS

SUBCOMMITTEE ON THE
CONSTITUTION

April 3, 1996

*PRB
PR-PA/14
1838*

Ms. Judith L. Harris
Director of Legislative Affairs
Federal Communications Commission
1919 M Street NW
Washington, D.C. 20554

Dear Ms. Harris,

Enclosed for your attention is information I received from my constituent, Mr. Michael Karisch, The Ponder Group, Inc., a small business in San Antonio, Texas.

I would appreciate your reviewing this matter and responding to me at your earliest convenience.

Please send response to:

The Honorable Lamar Smith
1100 NE Loop 410, Suite 640
San Antonio, Texas 78209

(210) 821-5024 Commercial

Sincerely,

Lamar Smith

Lamar Smith
Member of Congress

LS:po
Enclosure

PLEASE REPLY TO:

☐ 1100 N.E. LOOP 410
SUITE 640
SAN ANTONIO, TX 78209
(210) 821-5024

☐ 221 E. MAIN STREET
SUITE 318
ROUND ROCK, TX 78664
(512) 218-4221

☐ 1006 JUNCTION HIGHWAY
KERRVILLE, TX 78028
(210) 895-1414

☐ 33 EAST TWOHIG STREET
SUITE 302
SAN ANGELO, TX 76903
(915) 653-3971

☐ 201 WEST WALL STREET
SUITE 104
MIDLAND, TX 79701
(915) 687-5232

THE PONDER GROUP, INC.
8026 Vantage, Suite 232
San Antonio, Texas 78230
210-349-1377

April 2, 1996

The Honorable Congressman Lamar Smith
1100 N.E. Loop 410
Suite 640
San Antonio, Texas 78209

Dear Congressman Smith:

I am writing this letter to you to seek your assistance and/or guidance regarding my situation with the Federal Communications Commission and Capital Hill.

We are a locally owned and operated paging retail/resell paging service company in San Antonio. Companies like ours currently buy large blocks of paging phone numbers from large paging conglomerates to resell to the public. This is similar to the insurance industry where an independent agent sells insurance by representing large nation-wide insurance companies.

During the course of last year, I have been negotiating with Bell South to obtain two of their paging licenses they control in San Antonio and Austin, Texas in order to build out our own independent paging system. Bell South, as you are aware, is a very large corporation that controls in excess of 3000 paging frequencies nation-wide; many of which are not being utilized or have never been utilized. Most all of the paging licenses/frequencies throughout the nation are controlled by large corporations. They hold on to these licenses by doing the minimal requirements mandated by the F.C.C. so that small companies such as mine can not enter the market and compete. They have controlled these licenses and the paging industry as a whole since the early 1980's when the licenses were first issued by the F.C.C..

Today, Austin has no locally owned paging companies and San Antonio only has two small locally owned company's which compete with the large nation-wide, corporate paging conglomerates. The two small companies in San Antonio operate paging licenses/frequencies on the UHF band which has inherited limitations. Many millions of dollars are taken from the economies of these two cities and others each year and sent outside Texas where the common carrier paging companies are based. The local governments as you are aware have no control over the airwaves above them.

After numerous conversations with many various departments at Bell South such as engineering, legal and many others, I was able

to negotiate their releasing two licenses to me, fore, they had no intention of ever using these licenses due to them being on a low band which limits their usefulness. Their legal department would not sell the licenses to me as I wished but opted instead to release the frequencies back to the F.C.C. in order for them to be reissued to me after being place on public notice. The legal department decided it would be cheaper for Bell South to return them. They gave no consideration to me or my company for having to risk the frequencies going on public notice where another company could also claim them. Luckily for me and my company, no other company has come forward to challenge my filing.

In the mean time I have spent thousands of dollars and hundreds of hours with consultants, engineers and lawyers preparing my two filings. This process was very difficult due to few people in Texas having knowledge regarding this "Washington controlled" industry.

Upon their release, On December 6, 1996, I filed with the F.C.C. requesting the two licenses where they accepted my filing and the related fees totaling Five Hundred and Thirty Dollars (\$530.00).

As you are aware, during December and January, the F.C.C. was furloughed and accompanying with the severe snow storms which occurred, very little activity took place at the F.C.C. According to the legal department at the F.C.C, "the two licenses should have been granted to me back in January", but were not due to the above stated reasons.

I have the financing and I am prepared to build out the paging systems, but I was patient in waiting for my pending approval.

On February 9, 1996, my worst nightmare occurred. The F.C.C., at the request of Capital Hill, froze all new applications for paging licenses in order to review Part 22 and Part 90 of the Commission's Rules "to Facilitate Future Development of Paging Systems". For yet unexplained reasons at the F.C.C., my filings were frozen as well.

The review "is intended to expedite the licensing process, reduce regulatory delays, encourage wide-area service, achieve substantial administrative savings, and reflect the realities of the marketplace". In other words, the F.C.C. wants to do away with licensing of "single site systems" (each city or 40 mile radius area with one license per frequency) in order to do "geographic systems" (where one frequency would cover several states at one time). This logic is fine for the licensing of brand new released frequencies where there is no conflict with existing systems within a certain of the United States. But on all currently operated licensed frequencies, each city has different unrelated paging company's that are already transmitting to their customers; usually tens of thousands of customers at a given time. Their is no way of combining or

networking the cities in any regional type situation. As well, companies wishing to expand their existing systems no longer will be able.

Further, the F.C.C. and Capital Hill wants to auction all new licenses to the highest bidders. Therefore, only large nation-wide companies will be in the paging business. Small companies can not compete with the large nation-wide companies for the rights to use these frequencies, fore, the large corporations have hundreds of millions of dollars to spend. Nor do the small companies have the capital to build out regional type systems where costs would be astronomical in linking many cities at one time and all parts between necessary for continuous coverage. Therefore, cities throughout America will only have large nation-wide paging company's to chose from without the "small guys" like us to compete with. That's alot of money being sucked out of local governments already without changing the process.

The large corporations started out controlling all of the paging frequencies in the 1980's and again in 1996 have strived to control the paging industry. Local cities should have the right to have locally owned paging companies that services their citizens. The only wish a small paging company has is to be on the same playing field with an equal chance to compete.

Congressman, if you can help me in anyway or offer me any guidance whatsoever, please contact me at 210-349-1377.

Thank you so much for your time and hopefully your involvement.

Sincerely,



Michael Karisch